

105TH CONGRESS  
2D SESSION

# H. R. 3828

To amend title XVIII of the Social Security Act to improve access to health care services for certain Medicare-eligible veterans.

---

## IN THE HOUSE OF REPRESENTATIVES

MAY 12, 1998

Mr. THOMAS (for himself, Mr. STUMP, Mr. BILIRAKIS, Mr. SPENCE, Mr. RANGEL, Mr. STEARNS, Mr. HOUGHTON, Mrs. JOHNSON of Connecticut, Mr. SAM JOHNSON of Texas, Mr. MCCRERY, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BOEHLERT, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. COLLINS, Mr. COMBEST, Mr. COOK, Mr. COOKSEY, Mr. CRANE, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DOYLE, Mr. EDWARDS, Mr. EHRLICH, Mrs. EMERSON, Mr. ENGLISH of Pennsylvania, Mr. ENSIGN, Mr. EVERETT, Mrs. FOWLER, Mr. FOX of Pennsylvania, Mr. FROST, Mr. GONZALEZ, Mr. GOODLING, Ms. GRANGER, Mr. GREENWOOD, Mr. HALL of Ohio, Mr. HALL of Texas, Mr. HAYWORTH, Mr. HEFNER, Mr. HERGER, Mr. HOLDEN, Mr. HULSHOF, Mr. HUNTER, Mr. HUTCHINSON, Mrs. KELLY, Mr. KUCINICH, Mr. LAHOOD, Mr. LAMPSON, Mr. LANTOS, Mr. LIPINSKI, Mr. MANZULLO, Mr. METCALF, Mr. NETHERCUTT, Mr. PORTMAN, Mr. REDMOND, Mrs. ROUKEMA, Mr. RUSH, Mr. SANDERS, Mr. SANDLIN, Mr. SAXTON, Mr. SERRANO, Mr. SKEEN, Mr. SMITH of New Jersey, Mr. SOLOMON, Mr. STUPAK, Mr. TANNER, Mrs. THURMAN, Mr. TIAHRT, Mr. UPTON, Mr. WALSH, Mr. WATKINS, Mr. WATTS of Oklahoma, Mr. WHITFIELD, and Ms. WOOLSEY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Veterans' Affairs, and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

## A BILL

To amend title XVIII of the Social Security Act to improve

access to health care services for certain Medicare-eligible veterans.

1 *Be it enacted by the Senate and House of Representa-*  
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; PURPOSES.**

4 (a) SHORT TITLE.—This Act may be cited as the  
 5 “Veterans Medicare Access Improvement Act of 1998”.

6 (b) PURPOSES.—The purposes of this Act are—

7 (1) to establish a program that permits Medi-  
 8 care-eligible veterans who have a service-connected  
 9 disability or are financially needy and for whom ac-  
 10 cess to medical care of the Department of Veterans  
 11 Affairs has been historically deficient because of geo-  
 12 graphic remoteness or inaccessibility to receive their  
 13 Medicare benefits through a service network of pro-  
 14 viders established by the Department of Veterans  
 15 Affairs; and

16 (2) to establish a 3-year demonstration project  
 17 that permits other Medicare-eligible veterans to re-  
 18 ceive such benefits through the Department of Vet-  
 19 erans Affairs.

20 **SEC. 2. IMPROVEMENT IN VETERANS’ ACCESS TO SERVICES**  
 21 **UNDER MEDICARE PROGRAM.**

22 (a) IN GENERAL.—Title XVIII of the Social Security  
 23 Act, as amended by sections 4603, 4801, and 4015(a) of

1 the Balanced Budget Act of 1997, is amended by adding  
2 at the end the following:

3 “IMPROVING VETERANS’ ACCESS TO SERVICES

4 “SEC. 1897. (a) DEFINITIONS.—In this section:

5 “(1) ADMINISTERING SECRETARIES.—The term  
6 ‘administering Secretaries’ means the Secretary of  
7 Health and Human Services and the Secretary of  
8 Veterans Affairs acting jointly.

9 “(2) PROGRAM.—The term ‘program’ means  
10 the program established under this section with re-  
11 spect to category A Medicare-eligible veterans.

12 “(3) DEMONSTRATION PROJECT; PROJECT.—  
13 The terms ‘demonstration project’ and ‘project’  
14 mean the demonstration project carried out under  
15 this section with respect to category C Medicare-eli-  
16 gible veterans.

17 “(4) MEDICARE-ELIGIBLE VETERANS.—

18 “(A) CATEGORY A MEDICARE-ELIGIBLE  
19 VETERAN.—The term ‘category A Medicare-eli-  
20 gible veteran’ means an individual—

21 “(i) who is a veteran (as defined in  
22 section 101(2) of title 38, United States  
23 Code) and is described in paragraph (1) or  
24 (2) of section 1710(a) of title 38, United  
25 States Code;

1 “(ii) who is entitled to hospital insur-  
 2 ance benefits under part A of the Medicare  
 3 program and is enrolled in the supple-  
 4 mentary medical insurance program under  
 5 part B of the Medicare program; and

6 “(iii) for whom the medical center of  
 7 the Department of Veterans Affairs that is  
 8 closest to the individual’s place of resi-  
 9 dence is geographically remote or inaccess-  
 10 sible from such place.

11 “(B) CATEGORY C MEDICARE-ELIGIBLE  
 12 VETERAN.—The term ‘category C Medicare-eli-  
 13 gible veteran’ means an individual who—

14 “(i) is a veteran (as defined in section  
 15 101(2) of title 38, United States Code)  
 16 and is described in section 1710(a)(3) of  
 17 title 38, United States Code; and

18 “(ii) is entitled to hospital insurance  
 19 benefits under part A of the Medicare pro-  
 20 gram and is enrolled in the supplementary  
 21 medical insurance program under part B  
 22 of the Medicare program.

23 “(5) MEDICARE HEALTH CARE SERVICES.—The  
 24 term ‘Medicare health care services’ means items or  
 25 services covered under part A or B of this title.

1           “(6) TRUST FUNDS.—The term ‘trust funds’  
2       means the Federal Hospital Insurance Trust Fund  
3       established in section 1817 and the Federal Supple-  
4       mentary Medical Insurance Trust Fund established  
5       in section 1841.

6       “(b) PROGRAM AND DEMONSTRATION PROJECT.—

7           “(1) IN GENERAL.—

8               “(A) ESTABLISHMENT.—The administer-  
9       ing Secretaries are authorized to establish—

10               “(i) a program (under an agreement  
11               entered into by the administering Secretar-  
12               ies) under which the Secretary of Health  
13               and Human Services shall reimburse the  
14               Secretary of Veterans Affairs, from the  
15               trust funds, for Medicare health care serv-  
16               ices furnished to category A Medicare-eli-  
17               ble veterans; and

18               “(ii) a demonstration project (under  
19               such an agreement) under which the Sec-  
20               retary of Health and Human Services shall  
21               reimburse the Secretary of Veterans Af-  
22               fairs, from the trust funds, for Medicare  
23               health care services furnished to category  
24               C Medicare-eligible veterans.

1           “(B) AGREEMENT.—The agreement en-  
2           tered into under subparagraph (A) shall include  
3           at a minimum—

4                   “(i) a description of the benefits to be  
5                   provided to the participants of the program  
6                   and the demonstration project established  
7                   under this section;

8                   “(ii) a description of the eligibility  
9                   rules for participation in the program and  
10                  demonstration project, including any cost  
11                  sharing requirements;

12                  “(iii) a description of the process for  
13                  enrolling veterans for participation in the  
14                  program, which process may, to the extent  
15                  practicable, be administered in the same or  
16                  similar manner to the registration process  
17                  established to implement section 1705 of  
18                  title 38, United States Code;

19                  “(iv) a description of how the pro-  
20                  gram and the demonstration project will  
21                  satisfy the requirements under this title;

22                  “(v) a description of the sites selected  
23                  under paragraph (2);

24                  “(vi) a description of how reimburse-  
25                  ment requirements under subsection (g)

1 and maintenance of effort requirements  
2 under subsection (h) will be implemented  
3 in the program and in the demonstration  
4 project;

5 “(vii) a statement that all data of the  
6 Department of Veterans Affairs and of the  
7 Department of Health and Human Serv-  
8 ices that the administering Secretaries de-  
9 termine is necessary to conduct independ-  
10 ent estimates and audits of the mainte-  
11 nance of effort requirement, the annual  
12 reconciliation, and related matters required  
13 under the program and the demonstration  
14 project shall be available to the administer-  
15 ing Secretaries;

16 “(viii) a description of any require-  
17 ment that the Secretary of Health and  
18 Human Services waives pursuant to sub-  
19 section (d);

20 “(ix) a requirement that the Secretary  
21 of Veterans Affairs undertake and main-  
22 tain outreach and marketing activities,  
23 consistent with capacity limits under the  
24 program, for category A Medicare-eligible  
25 veterans;

1 “(x) a description of how the admin-  
2 istering Secretaries shall conduct the data  
3 matching program under subparagraph  
4 (F), including the frequency of updates to  
5 the comparisons performed under subpara-  
6 graph (F)(ii); and

7 “(xi) a statement by the Secretary of  
8 Veterans Affairs that the type or amount  
9 of health care services furnished under  
10 chapter 17 of title 38, United States Code,  
11 to veterans who are entitled to benefits  
12 under part A or enrolled under part B, or  
13 both, shall not be reduced by reason of the  
14 program or project.

15 “(C) COST-SHARING UNDER DEMONSTRA-  
16 TION PROJECT.—Notwithstanding any provision  
17 of title 38, United States Code, in order—

18 “(i) to maintain and broaden access  
19 to services,

20 “(ii) to encourage appropriate use of  
21 services, and

22 “(iii) to control costs,  
23 the Secretary of Veterans Affairs may establish  
24 enrollment fees and copayment requirements  
25 under the demonstration project under this sec-



tion consistent with subsection (d)(1). Such fees and requirements may vary based on income.

“(D) HEALTH CARE BENEFITS.—The administering Secretaries shall prescribe the minimum health care benefits to be provided under the program and demonstration project to Medicare-eligible veterans enrolled in the program or project. Those benefits shall include at least all Medicare health care services covered under this title.

“(E) ESTABLISHMENT OF SERVICE NETWORKS.—

“(i) USE OF VA OUTPATIENT CLINICS.—The Secretary of Veterans Affairs, to the extent practicable, shall use outpatient clinics of the Department of Veterans Affairs in providing services under the program.

“(ii) AUTHORITY TO CONTRACT FOR SERVICES.—The Secretary of Veterans Affairs may enter into contracts and arrangements with entities (such as private practitioners, providers of services, preferred provider organizations, and health care plans) for the provision of services for

1 which the Secretary of Health and Human  
2 Services is responsible under the program  
3 or project under this section and shall take  
4 into account the existence of qualified  
5 practitioners and providers in the areas in  
6 which the program or project is being con-  
7 ducted. Under such contracts and arrange-  
8 ments, such Secretary of Health and  
9 Human Services may require the entities  
10 to furnish such information as such Sec-  
11 retary may require to carry out this sec-  
12 tion.

13 “(F) DATA MATCH.—

14 “(i) ESTABLISHMENT OF DATA  
15 MATCHING PROGRAM.—The administering  
16 Secretaries shall establish a data matching  
17 program under which there is an exchange  
18 of information of the Department of Veter-  
19 ans Affairs and of the Department of  
20 Health and Human Services as is nec-  
21 essary to identify veterans who are entitled  
22 to benefits under part A or enrolled under  
23 part B, or both, in order to carry out this  
24 section. The provisions of section 552a of  
25 title 5, United States Code, shall apply

1 with respect to such matching program  
2 only to the extent the administering Sec-  
3 retaries find it feasible and appropriate in  
4 carrying out this section in a timely and  
5 efficient manner.

6 “(ii) PERFORMANCE OF DATA  
7 MATCH.—The administering Secretaries,  
8 using the data matching program estab-  
9 lished under clause (i), shall perform a  
10 comparison in order to identify veterans  
11 who are entitled to benefits under part A  
12 or enrolled under part B, or both. To the  
13 extent such Secretaries deem appropriate  
14 to carry out this section, the comparison  
15 and identification may distinguish among  
16 such veterans by category of veterans, by  
17 entitlement to benefits under this title, or  
18 by other characteristics.

19 “(iii) DEADLINE FOR FIRST DATA  
20 MATCH.—The administering Secretaries  
21 shall first perform a comparison under  
22 clause (ii) by not later than October 31,  
23 1998.

24 “(iv) CERTIFICATION BY INSPECTOR  
25 GENERAL.—

1                   “(I) IN GENERAL.—The admin-  
2                   istering Secretaries may not conduct  
3                   the program unless the Inspector Gen-  
4                   eral of the Department of Health and  
5                   Human Services certifies to Congress  
6                   that the administering Secretaries  
7                   have established the data matching  
8                   program under clause (i) and have  
9                   performed a comparison under clause  
10                  (ii).

11                  “(II) DEADLINE FOR CERTIFI-  
12                  CATION.—Not later than December  
13                  15, 1998, the Inspector General of the  
14                  Department of Health and Human  
15                  Services shall submit a report to Con-  
16                  gress containing the certification  
17                  under subclause (I) or the denial of  
18                  such certification.

19                  “(2) NUMBER OF SITES.—The program and  
20                  demonstration project shall be conducted in geo-  
21                  graphic service areas of the Department of Veterans  
22                  Affairs, designated jointly by the administering Sec-  
23                  retaries after review of all such areas, as follows:

24                  “(A) PROGRAM SITES.—

1 “(i) IN GENERAL.—Except as pro-  
2 vided in clause (ii), the program shall be  
3 conducted in not more than 3 such areas  
4 with respect to category A Medicare-eli-  
5 ble veterans.

6 “(ii) ADDITIONAL PROGRAM SITES.—  
7 Subject to the certification required under  
8 subsection (h)(1)(B)(iii), for a year begin-  
9 ning on or after January 1, 2003, the pro-  
10 gram shall be conducted in such areas as  
11 are designated jointly by the administering  
12 Secretaries after review of all such areas.

13 “(B) PROJECT SITES.—

14 “(i) IN GENERAL.—The demonstra-  
15 tion project shall be conducted in not more  
16 than 3 such areas with respect to category  
17 C Medicare-eligible veterans.

18 “(ii) MANDATORY SITE.—At least one  
19 of the areas designated under clause (i)  
20 shall encompass the catchment area of a  
21 military medical facility which was closed  
22 pursuant to either the Defense Base Clo-  
23 sure and Realignment Act of 1990 (part A  
24 of title XXIX of Public Law 101–510; 10  
25 U.S.C. 2687 note) or title II of the De-

1           fense Authorization Amendments and Base  
2           Closure and Realignment Act (Public Law  
3           100–526; 10 U.S.C. 2687 note).

4           “(3) RESTRICTION.—Funds from the program  
5           or demonstration project shall not be used for—

6                   “(A) the construction of any treatment fa-  
7                   cility of the Department of Veterans Affairs; or

8                   “(B) the renovation, expansion, or other  
9                   construction at such a facility.

10          “(4) DURATION.—The administering Secretar-  
11          ies shall conduct and implement the program and  
12          the demonstration project as follows:

13                   “(A) PROGRAM.—

14                           “(i) IN GENERAL.—The program shall  
15                           begin on January 1, 2000, in the sites des-  
16                           ignated under paragraph (2)(A)(i) and,  
17                           subject to subsection (h)(1)(B)(iii)(II), for  
18                           a year beginning on or after January 1,  
19                           2003, the program may be conducted in  
20                           such additional sites designated under  
21                           paragraph (2)(A)(ii).

22                           “(ii) If for a year beginning on or  
23                           after January 1, 2003, the program is con-  
24                           ducted only in the sites designated under  
25                           paragraph (2)(A)(i), Medicare health care

1 services may not be provided under the  
2 program to a number of category-A Medi-  
3 care-eligible veterans that exceeds the ag-  
4 gregate number of such veterans covered  
5 under the program as of December 31,  
6 2002.

7 “(B) PROJECT.—The demonstration  
8 project shall begin on January 1, 1999, and  
9 end on December 31, 2001.

10 “(C) IMPLEMENTATION.—The administer-  
11 ing Secretaries may implement the program  
12 and demonstration project through the publica-  
13 tion of regulations that take effect on an in-  
14 terim basis, after notice and pending oppor-  
15 tunity for public comment.

16 “(5) REPORTS.—

17 “(A) PROGRAM.—By not later than Sep-  
18 tember 1, 1999, the administering Secretaries  
19 shall submit a copy of the agreement entered  
20 into under paragraph (1) with respect to the  
21 program to Congress.

22 “(B) PROJECT.—By not later than Sep-  
23 tember 1, 1998, the administering Secretaries  
24 shall submit a copy of the agreement entered

1           into under paragraph (1) with respect to the  
2           project to Congress.

3           “(6) REPORT ON MAINTENANCE OF LEVEL OF  
4           HEALTH CARE SERVICES.—

5                   “(A) IN GENERAL.—The Secretary of Vet-  
6           erans Affairs may not implement the program  
7           at a site designated under paragraph (2)(A) un-  
8           less, by not later than 90 days before the date  
9           of the implementation, the Secretary of Veter-  
10          ans Affairs submits to Congress and to the  
11          Comptroller General of the United States a re-  
12          port that contains the information described in  
13          subparagraph (B). The Secretary of Veterans  
14          Affairs shall periodically update the report  
15          under this paragraph as appropriate.

16                   “(B) INFORMATION DESCRIBED.—For pur-  
17          poses of subparagraph (A), the information de-  
18          scribed in this subparagraph is a description of  
19          the operation of the program at the site and of  
20          the steps to be taken by the Secretary of Veter-  
21          ans Affairs to prevent the reduction of the type  
22          or amount of health care services furnished  
23          under chapter 17 of title 38, United States  
24          Code, to veterans who are entitled to benefits  
25          under part A or enrolled under part B, or both,



1           within the geographic service area of the De-  
2           partment of Veterans Affairs in which the site  
3           is located by reason of the program or project.

4           “(c) CREDITING OF PAYMENTS.—A payment received  
5   by the Secretary of Veterans Affairs under the program  
6   or demonstration project shall be credited to the applicable  
7   Department of Veterans Affairs medical care appropria-  
8   tion (and within that appropriation). Any such payment  
9   received during a fiscal year for services provided during  
10  a prior fiscal year may be obligated by the Secretary of  
11  Veterans Affairs during the fiscal year during which the  
12  payment is received.

13          “(d) APPLICATION OF CERTAIN MEDICARE RE-  
14  QUIREMENTS.—

15               “(1) AUTHORITY.—

16                   “(A) IN GENERAL.—Except as provided  
17                   under subparagraph (B), the program and the  
18                   demonstration project shall meet all require-  
19                   ments of Medicare+Choice plans under part C  
20                   and regulations pertaining thereto, and other  
21                   requirements for receiving Medicare payments,  
22                   except that the prohibition of payments to Fed-  
23                   eral providers of services under sections 1814(c)  
24                   and 1835(d), and paragraphs (2) and (3) of  
25                   section 1862(a) shall not apply.

1 “(B) WAIVER.—Except as provided in  
2 paragraph (2), the Secretary of Health and  
3 Human Services is authorized to waive any re-  
4 quirement described under subparagraph (A),  
5 or approve equivalent or alternative ways of  
6 meeting such a requirement, but only if such  
7 waiver or approval—

8 “(i) reflects the unique status of the  
9 Department of Veterans Affairs as an  
10 agency of the Federal Government; and

11 “(ii) is necessary to carry out the pro-  
12 gram or demonstration project.

13 “(2) BENEFICIARY PROTECTIONS AND OTHER  
14 MATTERS.—The program and the demonstration  
15 project shall comply with the requirements of part C  
16 of this title that relate to beneficiary protections and  
17 other matters, including such requirements relating  
18 to the following areas, to the extent not inconsistent  
19 with subsection (b)(1)(B)(iii):

20 “(A) Enrollment and disenrollment.

21 “(B) Nondiscrimination.

22 “(C) Information provided to beneficiaries.

23 “(D) Cost-sharing limitations.

24 “(E) Appeal and grievance procedures.

25 “(F) Provider participation.

1 “(G) Access to services.

2 “(H) Quality assurance and external re-  
3 view.

4 “(I) Advance directives.

5 “(J) Other areas of beneficiary protections  
6 that the administering Secretaries determine  
7 are applicable to such program or project.

8 “(e) INSPECTOR GENERAL.—Nothing in the agree-  
9 ment entered into under subsection (b) shall limit the In-  
10 spector General of the Department of Health and Human  
11 Services from investigating any matters regarding the ex-  
12 penditure of funds under this title for the program and  
13 demonstration project, including compliance with the pro-  
14 visions of this title and all other relevant laws.

15 “(f) VOLUNTARY PARTICIPATION.—Participation of a  
16 category A Medicare-eligible veteran in the program or  
17 category C Medicare-eligible veteran in the demonstration  
18 project shall be voluntary.

19 “(g) PAYMENTS BASED ON REGULAR MEDICARE  
20 PAYMENT RATES.—

21 “(1) IN GENERAL.—Subject to the succeeding  
22 provisions of this subsection, the Secretary of Health  
23 and Human Services shall reimburse the Secretary  
24 of Veterans Affairs for services provided under the  
25 program or demonstration project at a rate equal to

1       95 percent of the amount paid to a  
2       Medicare+Choice organization under part C of this  
3       title with respect to such an enrollee. In cases in  
4       which a payment amount may not otherwise be read-  
5       ily computed, the Secretary of Health and Human  
6       Services shall establish rules for computing equiva-  
7       lent or comparable payment amounts.

8               “(2) EXCLUSION OF CERTAIN AMOUNTS.—In  
9       computing the amount of payment under paragraph  
10      (1), the following shall be excluded:

11              “(A) SPECIAL PAYMENTS.—Any amount  
12              attributable to an adjustment under subpara-  
13              graphs (B) and (F) of section 1886(d)(5) and  
14              subsection (h) of such section.

15              “(B) PERCENTAGE OF CAPITAL PAY-  
16              MENTS.—An amount determined by the admin-  
17              istering Secretaries for amounts attributable to  
18              payments for capital-related costs under sub-  
19              section (g) of such section.

20              “(3) PERIODIC PAYMENTS FROM MEDICARE  
21      TRUST FUNDS.—Payments under this subsection  
22      shall be made—

23              “(A) on a periodic basis consistent with  
24              the periodicity of payments under this title; and

1           “(B) in appropriate part, as determined by  
2           the Secretary of Health and Human Services,  
3           from the trust funds.

4           “(4) CAP ON REIMBURSEMENT AMOUNTS.—The  
5           aggregate amount to be reimbursed under this sub-  
6           section pursuant to the agreement entered into be-  
7           tween the administering Secretaries under sub-  
8           section (b) is as follows:

9           “(A) PROGRAM.—With respect to category  
10          A Medicare-eligible veterans, such aggregate  
11          amount shall not exceed—

12                 “(i) for 2000, a total of \$50,000,000;

13                 “(ii) for 2001, a total of \$75,000,000;

14                 and

15                 “(iii) subject to subparagraph (B), for  
16          2002 and each succeeding year, a total of  
17          \$100,000,000.

18          “(B) EXPANSION OF PROGRAM.—If for a  
19          year beginning on or after January 1, 2003, the  
20          program is conducted in sites designated under  
21          subsection (b)(2)(A)(ii), the limitation under  
22          subparagraph (A)(iii) shall not apply to the pro-  
23          gram for such a year.

24          “(C) PROJECT.—With respect to category  
25          C Medicare-eligible veterans, such aggregate

1 amount shall not exceed a total of \$50,000,000  
2 for each of calendar years 1999 through 2001.

3 “(h) MAINTENANCE OF EFFORT.—

4 “(1) MONITORING EFFECT OF PROGRAM AND  
5 DEMONSTRATION PROJECT ON COSTS TO MEDICARE  
6 PROGRAM.—

7 “(A) IN GENERAL.—The administering  
8 Secretaries, in consultation with the Comptrol-  
9 ler General of the United States, shall closely  
10 monitor the expenditures made under this title  
11 for category A and C Medicare-eligible veterans  
12 compared to the expenditures that would have  
13 been made for such veterans if the program and  
14 demonstration project had not been conducted.  
15 The agreement entered into by the administer-  
16 ing Secretaries under subsection (b) shall re-  
17 quire the Department of Veterans Affairs to  
18 maintain overall the level of effort for services  
19 covered under this title to such categories of  
20 veterans by reference to a base year as deter-  
21 mined by the administering Secretaries.

22 “(B) DETERMINATION OF MEASURE OF  
23 COSTS OF MEDICARE HEALTH CARE SERV-  
24 ICES.—

1           “(i) IMPROVEMENT OF INFORMATION  
2           MANAGEMENT SYSTEM.—Not later than  
3           October 1, 2001, the Secretary of Veterans  
4           Affairs shall improve its information man-  
5           agement system such that, for a year be-  
6           ginning on or after January 1, 2002, the  
7           Secretary of Veterans Affairs is able to  
8           identify costs incurred by the Department  
9           of Veterans Affairs in providing Medicare  
10          health care services to Medicare-eligible  
11          veterans for purposes of meeting the re-  
12          quirements with respect to maintenance of  
13          effort under an agreement under sub-  
14          section (b)(1)(A).

15          “(ii) IDENTIFICATION OF MEDICARE  
16          HEALTH CARE SERVICES.—The Secretary  
17          of Health and Human Services shall pro-  
18          vide such assistance as is necessary for the  
19          Secretary of Veterans Affairs to determine  
20          which health care services furnished by the  
21          Secretary of Veterans Affairs qualify as  
22          Medicare health care services.

23          “(iii) CERTIFICATION BY HHS INSPEC-  
24          TOR GENERAL.—

1                   “(I) REQUEST FOR CERTIFI-  
2                   CATION.—The Secretary of Veterans  
3                   Affairs may request the Inspector  
4                   General of the Department of Health  
5                   and Human Services to make a cer-  
6                   tification to Congress that the Sec-  
7                   retary of Veterans Affairs has im-  
8                   proved its management system under  
9                   clause (i) such that the Secretary of  
10                  Veterans Affairs is able to identify the  
11                  costs described in such clause in a  
12                  reasonably reliable and accurate man-  
13                  ner.

14                  “(II) REQUIREMENT FOR EXPAN-  
15                  SION OF PROGRAM.—The program  
16                  may be conducted in the additional  
17                  sites under paragraph (2)(A)(ii) and  
18                  cover such additional category A  
19                  Medicare eligible veterans in such ad-  
20                  ditional sites only if the Inspector  
21                  General of the Department of Health  
22                  and Human Services has made the  
23                  certification described in subclause  
24                  (I).



1                   “(III) DEADLINE FOR CERTIFI-  
2                   CATION.—Not later than the date that  
3                   is the earlier of the date that is 60  
4                   days after the Secretary of Veterans  
5                   Affairs requests a certification under  
6                   subclause (I) or June 1, 2002, the In-  
7                   specter General of the Department of  
8                   Health and Human Services shall sub-  
9                   mit a report to Congress containing  
10                  the certification under subclause (I)  
11                  or the denial of such certification.

12                  “(C) MAINTENANCE OF LEVEL OF EF-  
13                  FORT.—

14                  “(i) REPORT BY SECRETARY OF VET-  
15                  ERANS AFFAIRS ON BASIS FOR CALCULA-  
16                  TION.—Not later than the date that is 60  
17                  days after the date on which the admin-  
18                  istering Secretaries enter into an agree-  
19                  ment under subsection (b)(1)(A), the Sec-  
20                  retary of Veterans Affairs shall submit a  
21                  report to Congress and the Comptroller  
22                  General of the United States explaining  
23                  the methodology used and basis for cal-  
24                  culating the level of effort of the Depart-

1           ment of Veterans Affairs under the pro-  
2           gram and project.

3           “(ii) REPORT BY COMPTROLLER GEN-  
4           ERAL.—Not later than the date that is 180  
5           days after the date described in clause (i),  
6           the Comptroller General of the United  
7           States shall submit to Congress and the  
8           administering Secretaries a report setting  
9           forth the Comptroller General’s findings,  
10          conclusion, and recommendations with re-  
11          spect to the report submitted by the Sec-  
12          retary of Veterans Affairs under clause (i).

13          “(iii) RESPONSE BY SECRETARY OF  
14          VETERANS AFFAIRS.—The Secretary of  
15          Veterans Affairs shall submit to Congress  
16          not later than 60 days after the date de-  
17          scribed in clause (ii) a report setting forth  
18          such Secretary’s response to the report  
19          submitted by the Comptroller General  
20          under clause (ii).

21          “(D) ANNUAL REPORT BY THE COMPTROL-  
22          LER GENERAL.—Not later than December 31 of  
23          each year during which the program and dem-  
24          onstration project is conducted, the Comptroller  
25          General of the United States shall submit to

1 the administering Secretaries and to Congress a  
2 report on the extent, if any, to which the costs  
3 of the Secretary of Health and Human Services  
4 under the Medicare program under this title in-  
5 creased during the preceding fiscal year as a re-  
6 sult of the program or demonstration project.

7 “(2) REQUIRED RESPONSE IN CASE OF IN-  
8 CREASE IN COSTS.—

9 “(A) IN GENERAL.—If the administering  
10 Secretaries find, based on paragraph (1), that  
11 the expenditures under the Medicare program  
12 under this title increased (or are expected to in-  
13 crease) during a fiscal year because of the pro-  
14 gram or demonstration project, the administer-  
15 ing Secretaries shall take such steps as may be  
16 needed—

17 “(i) to recoup for the Medicare pro-  
18 gram the amount of such increase in ex-  
19 penditures; and

20 “(ii) to prevent any such increase in  
21 the future.

22 “(B) STEPS.—Such steps—

23 “(i) under subparagraph (A)(i) shall  
24 include payment of the amount of such in-  
25 creased expenditures by the Secretary of

1 Veterans Affairs from the current medical  
2 care appropriation for the Department of  
3 Veterans Affairs to the trust funds; and

4 “(ii) under subparagraph (A)(ii) shall  
5 include lowering the amount of payment  
6 under the program or project under sub-  
7 section (g)(1), and may include, in the case  
8 of the demonstration project, suspending  
9 or terminating the project (in whole or in  
10 part).

11 “(i) EVALUATION AND REPORTS.—

12 “(1) INDEPENDENT EVALUATION BY GAO.—

13 “(A) IN GENERAL.—The Comptroller Gen-  
14 eral of the United States shall conduct an eval-  
15 uation of the program and an evaluation of the  
16 demonstration project, and shall submit annual  
17 reports on the program and demonstration  
18 project to the administering Secretaries and to  
19 Congress.

20 “(B) FIRST REPORT.—The first report for  
21 the program or demonstration project under  
22 subparagraph (A) shall be submitted not later  
23 than 12 months after the date on which the  
24 Secretary of Veterans Affairs first provides

1 services under the program or project, respec-  
2 tively.

3 “(C) FINAL REPORT ON DEMONSTRATION  
4 PROJECT.—A final report shall be submitted  
5 with respect to the demonstration project not  
6 later than 3½ years after the date of the first  
7 report on the project under subparagraph (B).

8 “(D) CONTENTS.—The evaluation and re-  
9 ports under this paragraph for the program or  
10 demonstration project shall include an assess-  
11 ment, based on the agreement entered into  
12 under subsection (b), of the following:

13 “(i) Any savings or costs to the Medi-  
14 care program under this title resulting  
15 from the program or project.

16 “(ii) The cost to the Department of  
17 Veterans Affairs of providing care to cat-  
18 egory A Medicare-eligible veterans under  
19 the program or to category C Medicare-eli-  
20 gible veterans under the demonstration  
21 project, respectively.

22 “(iii) An analysis of how such pro-  
23 gram or project affects the overall acces-  
24 sibility of medical care through the De-  
25 partment of Veterans Affairs, and a de-

1           scription of the unintended effects (if any)  
2           upon the patient enrollment system under  
3           section 1705 of title 38, United States  
4           Code.

5           “(iv) Compliance by the Department  
6           of Veterans Affairs with the requirements  
7           under this title.

8           “(v) The number of category A Medi-  
9           care-eligible veterans or category C Medi-  
10          care-eligible veterans, respectively, opting  
11          to participate in the program or project in-  
12          stead of receiving health benefits through  
13          another health insurance plan (including  
14          benefits under this title).

15          “(vi) A list of the health insurance  
16          plans and programs that were the primary  
17          payers for Medicare-eligible veterans dur-  
18          ing the year prior to their participation in  
19          the program or project, respectively, and  
20          the distribution of their previous enroll-  
21          ment in such plans and programs.

22          “(vii) Any impact of the program or  
23          project, respectively, on private health care  
24          providers and beneficiaries under this title

1 that are not enrolled in the program or  
2 project.

3 “(viii) An assessment of the access to  
4 care and quality of care for Medicare-eligible  
5 veterans under the program or project,  
6 respectively.

7 “(ix) An analysis of whether, and in  
8 what manner, easier access to medical centers  
9 of the Department of Veterans Affairs  
10 affects the number of category A Medicare-  
11 eligible veterans or C Medicare-eligible veterans,  
12 respectively, receiving Medicare  
13 health care services.

14 “(x) Any impact of the program or  
15 project, respectively, on the access to care  
16 for category A Medicare-eligible veterans  
17 or C Medicare-eligible veterans, respectively,  
18 who did not enroll in the program or  
19 project and for other individuals entitled to  
20 benefits under this title.

21 “(xi) A description of the difficulties  
22 (if any) experienced by the Department of  
23 Veterans Affairs in managing the program  
24 or project, respectively.

1                   “(xii) Any additional elements speci-  
 2                   fied in the agreement entered into under  
 3                   subsection (b).

4                   “(xiii) Any additional elements that  
 5                   the Comptroller General of the United  
 6                   States determines is appropriate to assess  
 7                   regarding the program or project, respec-  
 8                   tively.

9                   “(2) REPORTS BY SECRETARIES ON PROGRAM  
 10                  AND DEMONSTRATION PROJECT WITH RESPECT TO  
 11                  MEDICARE-ELIGIBLE VETERANS.—

12                  “(A) DEMONSTRATION PROJECT.—Not  
 13                  later than 6 months after the date of the sub-  
 14                  mission of the final report by the Comptroller  
 15                  General of the United States on the demonstra-  
 16                  tion project under paragraph (1)(C), the admin-  
 17                  istering Secretaries shall submit to Congress a  
 18                  report containing their recommendation as to—

19                         “(i) whether there is a cost to the  
 20                         health care program under this title in  
 21                         conducting the demonstration project;

22                         “(ii) whether to extend the dem-  
 23                         onstration project or make the project per-  
 24                         manent; and



1 “(iii) whether the terms and condi-  
2 tions of the project should otherwise be  
3 continued (or modified) with respect to  
4 Medicare-eligible veterans.

5 “(B) PROGRAM.—Not later than 6 months  
6 after the date of the submission of the report  
7 by the Comptroller General of the United  
8 States on the third year of the operation of the  
9 program, the administering Secretaries shall  
10 submit to Congress a report containing their  
11 recommendation as to—

12 “(i) whether there is a cost to the  
13 health care program under this title in  
14 conducting the program under this section;

15 “(ii) whether to discontinue the pro-  
16 gram with respect to category A Medicare-  
17 eligible veterans; and

18 “(iii) whether the terms and condi-  
19 tions of the program should otherwise be  
20 continued (or modified) with respect to  
21 Medicare-eligible veterans.”.

22 (b) REPEAL OF PLAN REQUIREMENT.—Subsection  
23 (b) of section 4015 of the Balanced Budget Act of 1997  
24 (relating to an implementation plan for Veterans sub-  
25 vention) is repealed.

1       (c) EFFECTIVENESS CONTINGENT UPON ENACT-  
2   MENT OF OFFSETTING OUTLAY REDUCTIONS IN VA PRO-  
3   GRAMS THROUGH RESTRICTION OF USE OF TOBACCO  
4   PRODUCTS TO QUALIFY FOR SERVICE-CONNECTED ENTI-  
5   TLEMENT.—(1) No payment may be made from the Fed-  
6   eral Hospital Insurance Trust Fund or from the Federal  
7   Supplementary Medical Insurance Trust Fund for items  
8   or services furnished under the program or demonstration  
9   project established under section 1897 of the Social Secu-  
10   rity Act, as added by subsection (a), before the date that  
11   the Director of the Office of Management and Budget de-  
12   termines that—

13           (A) legislation described in paragraph (2) has  
14       been enacted; and

15           (B) the net amount of the reductions in expend-  
16       itures achieved by reason of such legislation during  
17       the 5-fiscal-year period beginning with fiscal year  
18       1999, that is available to offset the net aggregate in-  
19       crease in outlays (if any) under the Medicare pro-  
20       gram under title XVIII of such Act, is not less than  
21       the estimate of the amount of such net aggregate in-  
22       crease during such period.

23       (2) For purposes of paragraph (1), the legislation de-  
24       scribed in this paragraph is legislation that restricts enti-  
25       tlement to service-connected compensation under title 38,

1 United States Code, for a disability that is the result of  
2 a veteran's use of tobacco products.

3 (3) The estimate described in paragraph (1)(B) shall  
4 be the estimate made by the Congressional Budget Office  
5 and contained in the report of the Committee on Ways  
6 and Means of the House of Representatives to accompany  
7 H. R. \_\_\_\_ of the 105th Congress (the Veterans Medicare  
8 Access Improvement Act of 1998), except to the extent  
9 that the Director of the Office of Management and Budget  
10 finds that the estimate is materially inaccurate.

○